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SENSITIVE BUT UNCLASSIFIED -- ENTIRE TEXT.

11. Peaceful pressure coming from civil society groups, religious organizations, the private sector, and the media were instrumental in helping resolve the crisis triggered by the December 2007 disputed elections. Having undertaken some steps to implement relatively easy elements of the reform agenda, the coalition government has not moved forward on the really tough issues of tackling the culture of impunity relating to violence and corruption. The strong role the United States played to help resolve the crisis gave encouragement to these groups to speak out. Pressure on the coalition government from these same groups is essential to drive implementation of the reform agenda. While we have been in constant contact with these groups, since early this year we have intensified engagement to encourage them to act in concert to push the reform agenda. One element of this expanded engagement has been the creation of a new local staff position as a senior adviser to the Ambassador, with the main purpose of focusing on civil society. This message reports on the Ambassador's recent meeting with 80 key civil society activists. Key members of the Mission team joined the Ambassador and followed up with the participants. (Septels will report on meetings with the private sector, religious groups, and the media.)

12. The Ambassador opened the meeting with a presentation of the U.S. view of the situation. He recalled the key role that civil society played during the crisis, and emphasized the need to reconstitute the loose coalition of civil society, the private sector, religious groups, and the media to maintain pressure on the coalition government to implement the reform agenda. He emphasized that civil society can count on strong U.S. support as they do so. (Note: Our offer of FBI investigative assistance in the case of the recent murders of two civil society activists has been warmly welcomed by civil society as a concrete demonstration of that commitment. (See reftel Nairobi 458: One of the murdered activists, John Paul Oulu, participated in the meeting and spoke about extrajudicial killings by the police) The Ambassador made clear U.S. determination to bring about implementation of the reform agenda, pointing out that doing so is key to dealing with the culture of impunity and beginning the process of fundamental change to strengthen democratic institutions. The Ambassador pointed out that the reform process must be driven by peaceful demand from the Kenyan people. The United States can offer a great deal of help and support, but change will not happen unless the

Kenyan people insist upon it.

13. Although there were some differences in perspective during the course of the two-hour discussion, the activists generally made the following main points:

-- The coalition government will not tackle the culture of impunity without strong pressure from the United States (and others, but particularly the United States, they stressed). They noted that threatening to take away visas or actually doing so are among the most effective instruments of pressure. (Note: The threat to take away visas during the crisis last year is generally credited with having had a significant impact in pushing political leaders to reach a solution.) Repeatedly they urged that we maintain and, if necessary, increase pressure on the coalition government. "You prepared Kenya with a vehicle for change," (the coalition government) one activist said, "but it has been hijacked by the vested interests."

-- The activists all cited as positive the role the United States played to help resolve the crisis last year and expressed appreciation for continued U.S. activism and leadership, which is helping maintain the democratic space which civil society needs to operate.

-- The activists expressed great appreciation for U.S. assistance programs, but stressed the need for more resources. We briefed them on all that we are doing (through USAID, the Office of Transition Initiatives, the Democracy and Human Rights Fund, etc.).

-- Civil society has not been adequately consulted by the coalition government in implementation of the reform agenda (with respect to formation of the Truth, Justice, and Reconciliation Commission, and Special Tribunal to hold accountable perpetrators of post-election violence, for example). We agreed and noted that we are pressing President Kibaki, Prime Minister Odinga, Parliamentarians, and others to consult with civil society and incorporate their concerns into legislation as appropriate.

-- Much more needs to be done to educate and energize ordinary Kenyans to push for change. We agreed. Various donors already support civic education, and we are looking at what additionally we can do.

-- Motivating ordinary Kenyans (two-thirds of whom are young people under 35) to push for peaceful change is key. We explained that we are working on an initiative to sponsor a series of public town hall meetings around the country, to be organized and led by civil society groups, that will be focused on the reform agenda and covered by the media. (Note that similar town hall meetings and gatherings organized by artists were important in supporting efforts to end the crisis last year.) The participants were very enthusiastic about this idea.

-- Civil society organizations readily admitted that they have not come together as effectively as they did during the crisis. Fatigue and competition for resources sometimes works against cooperation unless there is an immediate crisis. Ethnic divisions within and between organizations also work against closer collaboration. However, they agreed with the Ambassador's point on the need to work more closely together and said they would explore ways to do this.

-- Some organizations shared what they are doing to push for change. For example, one is collecting five million signatures on a petition to the President and the Prime Minister urging real progress on reform, including the constitutional review process; others are seeking to exert pressure on Parliament to behave more responsibly.

-- Despite the efforts the Kenyan government, the United States, and others are making to foster reconciliation, ethnic divisions are still very much alive. Civil society activists pointed out that, here again, civic education is

necessary and that the youth are affected by ethnic stereotypes and mistrust. All agreed, however, that fundamentally altering ethnic sentiments will take generations.

-- The situation in Kenya will likely become more tense before it gets better. The vested interests represented in the coalition government will strongly resist efforts to tamper with the culture of impunity. This may include violence or the threat of violence; some activists are already facing greater pressures (See Nairobi 525).

-- Participants in the meeting were constructively critical of their own efforts. They noted that they have indeed not behaved as responsibly as they did during the crisis. "If we and you (the U.S.) do not provide leadership, there will be violence," several said. Constructive leadership can, however, channel increasing popular frustration with the pace of reform into peaceful pressure on the government.

-- Participants noted that social pressures, due to high inflation, food shortages, and frustration over the lack of progress in tackling the culture of impunity, specifically corruption, could lead to renewed unrest at some point. Thus economic reforms by the coalition government must be implemented alongside political reform. Fighting corruption is a key nexus between the two. (See separate reporting on some limited steps the government has taken to alleviate food shortages.) The challenge for civil society will be to advocate forcefully for economic as well as political reforms, especially anti-corruption measures, and to ensure that public outrage about official corruption is focused constructively on reform and not used as a pretext for renewed violence or discrimination.

-- There was a lively discussion regarding the setting up of a local Special Tribunal to hold accountable perpetrators of post-election violence. The participants generally reflected what is probably the majority view of the Kenyan population that it would be better to send the issue to the International Criminal Court. This view is due to skepticism that any Special Tribunal can be set up credibly in Kenya given the culture of impunity and concerns about the judiciary's lack of impartiality. We pointed out that we agree with Kofi Annan that every effort should be made to set up the domestic Special Tribunal, but in a way that addresses these concerns. The provision to have at least some international judges and prosecutors will help. The Ambassador pointed out that he is pressing Kibaki, Odinga, and Parliamentarians to consult with civil society to take into account their concerns and to improve the proposed legislation (which may be reintroduced later this month). Sending the issue to the ICC would be an admission that Kenyans cannot tackle the key issues relating to the culture of impunity. The Ambassador also pointed out that Kenyans may have exaggerated expectations of what action the ICC will be able to take. The list of alleged perpetrators given to Kofi Annan by the commission set up to investigate the violence is intended to remain confidential, and the ICC may not act with the speed many anticipate. In the end, most of the activists agreed that a local Special Tribunal would be preferable, but only if all loopholes can be closed in order to make it credible. They expressed great skepticism that this could be accomplished.

¶4. We are following up with the participants and other elements of civil society to encourage them to work together to orchestrate peaceful, constructive pressure for implementation of the reform agenda. The Ambassador stressed the U.S. commitment to support their efforts. He also made clear that the United States is pushing hard for implementation of the reform agenda. Ultimately, however, it is the Kenyan people, with our help, who must bring about change.

RANNEBERGER